IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Dated: 07/02/2003

CORAM

The Hon'ble Mr. Justice PRABHA SRIDEVAN

Writ Petition No.35394 of 2002 and Writ Petition No. 35395/2002
and
WPMP Nos.52826, 52827, 54572 & 54573/2002
&
WMP Nos.56197 & 56198/2002 &
Contempt Petition Nos.755 & 756/2002 and
Sub App. No.363/2002.

Miss D. Reeta Josephine Nesam ..... Petitioner in WP 35394/2002
and in Con. PetN.No.755/2002

Miss Stella Bakiyavathi Sameul ..... Petitioner in WP 35395/2002
and Con. Petn No.756/2002

-Vs-

1. The Chairman,Salem Vinayaka Mission
Trust, Sankari Main Road, Ariyanoor
Salem-636 308.

2. The Dean, Aarupadai Veedu Medical College &
Hospital, Kirumambakkam, Pondicherry-607 402. ..... Respondents in both

Petitions under Art.226 of the Constitution of India
praying to issue al writ of MANDAMUS as stated therein.

For Petitioners : Mr. M.V. Venkataseshan

For Respondents : Mr. Mohan Parasaran, Sr.Counsel
for M/s. Satish Parasaran.

:COMMON ORDER

What started as a case of incredible insensitivity on the part of the respondents has ended satisfactorily. The petitioners are the two girl students who sought admission in the Arupadai Veedu Medical College and Hospital, Kirumambakkam, Pondicherry. Their case was that they have paid fees as per Management Quota in the Institution for the Academic year 2001 – 2002. The students joined college only on 04 -06-2002. They were also given books

for the first year's study. They have handed over their original certificates to the College. The respondents did not issue any receipt for the payments made by the students nor did they acknowledge that original certificates were given to them. The petitioners herein do not possess any evidence to show that they have paid the fees for getting their admission. On 27.07.2 002 the two students were preparing to write the Anatomy test. The second respondent who is the Dean of the College called the two students and asked them to sign some papers. According to them, he took them in the car upto Cuddalore Bus Stand from where the Warden put them in a local bus and took them to Salem. When the students insisted that they should be permitted to contact their parents at Qatar, they were not allowed to do so. They were left in a ladies Hostel at Salem. They were not even permitted to take the basic essential things that are required for girls. Thereafter the Warden ran away from Salem. With the help of others, they could contacted their parents at Qatar. They were forced to spend two nights and two days in an unknown place. Finally, with the help of relatives, they were taken from Salem and returned to Pondicherry in a week's time. They were afraid of further inhuman treatment from the respondents and hence they approached this Court for mandamus to direct the respondents to take them back to continue their Studies in MBBS course. Pending Writ petitions, an order was passed in WPMP Nos.54572 & 54573/2002 on 24.9.2009 directing the respondents to take the petitioners back in the 2nd respondent Institution and permit them to continue their studies in the first year MBBS course for the Academic Year June 2002-2003. Complaining that the said orders were violated by the respondents, two Contempt Petitions were filed.

2. The case of the respondents in the Writ Petitions is that petitioners were admitted for MBBS Course but in the NRI quota. The students have not paid fees as payable for seats in NRI Quota. It is also their case that the admission was subject to the Government of India approval and can be only for 2002-2003, if at all.

3. A counter affidavit has been filed in the contempt petition. Further investigation regarding contempt is not necessary since the respondents have permitted the petitioner to join the course and attend the classes for the Academic year 2002-2003.

4. Learned counsel for the petitioners submitted that students were not taken on NRI Quota since a student admitted in NRI Quota has to pay only in foreign currency and admittedly that was not the case here because the payment was made in Indian currency; further the petitioners had studied only in Educational Institution in India and not in any foreign school. According to the learned counsel for the petitioners, production of records would prove that the two students were admitted only in Management Quota and not in NRI Quota.

5. Learned senior counsel for the respondents would submit that factually many of the medical colleges started accepting Indian currency even in respect of students seeking admission under NRI quota. The petitioners were only admitted in the NRI quota and there was no mistake in that. Further the learned Senior counsel for the respondents has produced a

communication from the Government of India, Ministry of Health and Family Welfare, Department of Health, New Delhi dated January 20, 2003, wherein it is seen that this respondent college was given the approval of the Central Government for renewal of permission for admission of the third batch of MBBS Students during the Academic year 2002-2003. It was submitted on behalf of the respondents that since permission has been granted only now, the examinations will not be conducted in June, 2003. Though the petitioners had insisted on being admitted for the year 2001. The learned counsel fairly conceded that since the classes started only in June 2002, they would be satisfied if they are taken for year 2002-2003. As regards the controversy whether the students were admitted under NRI or Management Quota, it is resolved as follows:

"The learned Senior Counsel undertakes on behalf of the respondents that these two students would be accommodated under the lapsed seat category. That would mean that there will not be any additional financial burden apart from what has been paid by them as students under the Management quota. This undertaking is recorded."

The matter does not end here. The unfortunate aspect of this matter is the manner in which the persons who were in charge of the Educational Institution had treated the two petitioners. The two students were taken by the Warden from Pondicherry and deposited in a Hostel in Salem. There is no explanation why it was done without even permitting the two girl students to contact their parents. The Educational Institutions must realise that they are inloco parentis an as far as students are concerned and their responsibility is even more onerous especially when the parents of the students are abroad and the students are staying in hostel. It passes one's comprehension how the college authorities decided to take these two students away from the college in a car without seeking permission of their parents at Qatar or their local guardian and leave them at Salem. Every day one hears horror tales of how teachers have treated their students. The world over schools and colleges are called 'alma mater' which means ' mother'. If the teaching community and educational institutions have lost sight of their role and their duty towards the children of our land, then the future is bleak. In this context the following paragraph in 2003(1) SC 687 is relevant:

"Children are not only the future citizens but also the future of the earth. Elders in general, and parents and teachers in particular, owe a responsibility for taking care of the well-being and welfare of children. The world shall be a better or worse place to live according to how we treat the children today. Education is an investment made by the nation in its children for harvesting a future crop of responsible adults productive of a well-functioning society. However, children are vulnerable. They need to be valued, nurtured, caressed and protected."

The manner in which the respondents have conducted themselves deserves strong reproach. The students, who are in their custody and control are not their property to be dealt with as they please. Their human rights cannot be violated. The respondents must realise that if in those two days and two nights something untoward had happened to the two students then they would have had to answer to their parents how they discharged their responsibility of taking care of the students while they were under their control. Educational institutions are not money making factories, but

nurturing place where the future citizens are moulded and shaped. I earnestly hope that the respondents realise the sacredness of their duty.

6. Before ending, I record my appreciation of the pragmatic approach of Mr. M.V. Venkataseshan, learned counsel for the petitioners who did not insist on "the pound of flesh", and the fairness of Mr. Mohan Parasaran, learned Senior Counsel for the respondents, who not only acknowledged the fault where it lay, but played a positive role in seeing that justice was done to the two petitioners. It was my intention to award heavy cost as compensation for violation of the petitioners' human rights. But in view of the satisfactory result I felt that censure will suffice. Learned counsel for the petitioners also submitted that these petitioners should be permitted to write their examinations in June 2003 and they should not suffer loss of one year because of loss of attendance caused by the action of the respondents. The students shall be permitted to study during the academic year June 2002-2003 and in view of the undertaking now given by the learned senior counsel on behalf of the respondents, the two students will be given admission under 'lapsed seats category'. But since none of the students who joined with them will be writing the examinations in June 2003, it would be proper if they are permitted to write the examinations alongwith the other students.

7. Subject to the above observations and directions, these writ petitions are disposed of accordingly. Consequently connected Contempt petitions and WPMPs are closed. No costs.

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Internet: Yes
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